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8 **BEFORE THE**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 800-2022-086645

13 **NUNE ARAM SIMONIAN, M.D.**
14 **435 West Arden Avenue, Suite 550**
Glendale, California 91203

A C C U S A T I O N

15 **Physician's and Surgeon's Certificate No.**
16 **A 55410,**

Respondent.

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19 **PARTIES**

20 1. Reji Varghese (Complainant) brings this Accusation solely in his official capacity as
21 the Interim Executive Director of the Medical Board of California (Board).

22 2. On December 13, 1995, the Medical Board issued Physician's and Surgeon's
23 Certificate Number A 55410 to Nune Aram Simonian, M.D. (Respondent). That license was in
24 full force and effect at all times relevant to the charges brought herein and will expire on March
25 31, 2025, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board under the authority of the following laws. Unless otherwise indicated, all section references are to the Business and Professions Code (Code).

4. Section 2227 of the Code states:

(a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:

(1) Have his or her license revoked upon order of the board.

(2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.

(3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.

(4) Be publicly reprimanded by the board. The public reprimand may include a requirement that the licensee complete relevant educational courses approved by the board.

(5) Have any other action taken in relation to discipline as part of an order of probation, as the board or an administrative law judge may deem proper.

(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical review or advisory conferences, professional competency examinations, continuing education activities, and cost reimbursement associated therewith that are agreed to with the board and successfully completed by the licensee, or other matters made confidential or privileged by existing law, is deemed public, and shall be made available to the public by the board pursuant to Section 803.1.

5. Section 2234 of the Code, states:

The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

(b) Gross negligence.

(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

(1) An initial negligent diagnosis followed by an act or omission medically

appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.

(d) Incompetence.

(e) The commission of any act involving dishonesty or corruption that is substantially related to the qualifications, functions, or duties of a physician and surgeon.

(f) Any action or conduct that would have warranted the denial of a certificate.

(g) The failure by a certificate holder, in the absence of good cause, to attend and participate in an interview by the board. This subdivision shall only apply to a certificate holder who is the subject of an investigation by the board.

6. Section 2228 of the Code states:

The authority of the board or the California Board of Podiatric Medicine to discipline a licensee by placing him or her on probation includes, but is not limited to, the following:

(a) Requiring the licensee to obtain additional professional training and to pass an examination upon the completion of the training. The examination may be written or oral, or both, and may be a practical or clinical examination, or both, at the option of the board or the administrative law judge.

(b) Requiring the licensee to submit to a complete diagnostic examination by one or more physicians and surgeons appointed by the board. If an examination is ordered, the board shall receive and consider any other report of a complete diagnostic examination given by one or more physicians and surgeons of the licensee's choice.

(c) Restricting or limiting the extent, scope, or type of practice of the licensee, including requiring notice to applicable patients that the licensee is unable to perform the indicated treatment, where appropriate.

(d) Providing the option of alternative community service in cases other than violations relating to quality of care.

7. Section 2261 of the Code states:

Knowingly making or signing any certificate or other document directly or indirectly related to the practice of medicine or podiatry which falsely represents the existence or nonexistence of a state of facts, constitutes unprofessional conduct.

8. Section 2266 of the Code states: The failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct.

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1 harm. These conditions are explicitly listed by the CDC as contraindications or precautions for
2 vaccination. These contraindications and precautions are endorsed by the American Academy of
3 Pediatrics and the American Academy of Family Physicians. Guidance on these contraindications
4 and precautions are readily available to physicians and the public. A further source of information
5 on contraindications or precautions for use of a vaccine is the Food and Drug Administration
6 (FDA) prescribing information sheet that is included in the vaccine packaging and that is also
7 available on the FDA website.

8 14. The Department is required by Health and Safety Code section 120372, subdivision
9 (d) (8) to notify the Medical Board of California of any physician and surgeon who has five or
10 more medical exemptions revoked as inappropriate in a calendar year.

11 15. On March 10, 2022, the Board received notification that California Department of
12 Public Health revoked five or more medical exemptions for immunization issued by Respondent.
13 The Board's ensuing investigation revealed the following:

14 **Patient 1 (Male, DOB: 10/23/2009)¹**

15 16. Patient 1 was first seen by Respondent on August 16, 2021, for a well-child visit
16 when he was 11 years of age. Vital signs are documented but the physical exam was left blank.
17 The chart contains another history and physical form that is completed on this date that notes
18 parental concerns that are mostly illegible but appear to indicate that the "patient received shots
19 up to 1 year, but afterwards parents refused." There is a note that the patient was not cooperative
20 with both the vision screening and audiological evaluation. The assessment from this visit was
21 "Well Child" "Autism" and "Obesity" with a plan that is illegible, but appears to include
22 "serological survey", "diet" and "increase exercise." Blood testing, including Comprehensive
23 Metabolic Panel (CMP), Thyroid, Lipid panel, Complete Blood Count (CBC), and Urine Analysis
24 (UA) were completed during this visit, and all of the results were normal.

25 17. Respondent's record for Patient 1 contains a report of a CT scan performed on
26 October 19, 2021, after Patient 1 suffered a seizure and visited an emergency room with a chief

27 ¹ The patients are designated by a number for privacy reasons. Respondent is aware of the
28 patients' identities, and those will also be provided in response to a written Request for
Discovery.

1 complaint of seizure and notation of "febrile seizure" in the notes. The patient's labs from this
2 emergency room visit were also normal.

3 18. Respondent retained in her records for Patient 1 an evaluation in the Russian
4 language, which was performed in Krasnodar, Russia, on January 26, 2018, during which Patient
5 1 was diagnosed with "severe systemic underdevelopment of speech."

6 19. A copy of Patient 1's immunization record shows that he had received three Hepatitis
7 B Vaccination (HBV) doses, four Diphtheria-Tetanus-Pertussis (DTaP) vaccination doses, four
8 Polio vaccination (IPV) doses, and one Measles, Mumps, and Rubella (MMR) vaccination dose.
9 Documentation of these vaccines appears to have been copied from another document with no
10 details of administration included in Respondent's records for Patient 1.

11 20. During that initial visit on August 16, 2021, Respondent issued a vaccine exemption
12 for Patient 1, exempting him from MMR, TDaP and chickenpox (VZV, or Varicella) vaccines for
13 one year, until August 15, 2022, due to Patient 1's autism.

14 **Patient 2 (Male, DOB 3/26/2009)**

15 21. Patient 2 was first seen by Respondent on June 10, 2015, when Patient 2 was
16 approximately six years of age. The respondent noted an allergy to penicillin and a complaint of
17 frequent nosebleeds. The plan included a PPD (purified protein derivative) tuberculosis screening.
18 Patient 2 returned to see Respondent on August 24, 2015, with fever and cough. Patient 2 was
19 seen again on August 29, 2015, with bilateral conjunctivitis. Patient 2 returned to see Respondent
20 on December 5, 2018, with a fever and sore throat, which Respondent diagnosed as a URI (upper
21 respiratory infection), for which Patient 2 was prescribed supportive treatment. On February 5,
22 2018, Patient 2 was seen for recurrent nosebleeds and referred to an ENT (Ear, Nose, and Throat)
23 specialist. On March 26, 2019, Patient 2 was seen for his 10-year-old checkup. A vaccine record
24 documents that Patient 2 received a total of three doses of HBV, four doses of IPV, five doses of
25 DTaP, two doses of MMR, 4 doses of Influenza, (Hib) vaccine, and two doses of VZV.
26 Documentation of these vaccines appears to be copied from another document with no details of
27 administration recorded in Patient 2's records. The physical exam on March 26, 2019, was
28 normal; the only parental concern noted was "nosebleeds."

22. On August 17, 2021, Respondent issued a medical vaccine exemption, which exempted Patient 2 from receiving the Tdap vaccine for one year. The reason stated for this medical exemption was "Mother refuses shots."

Patient 3 (Female, DOB: 6/29/2010)

23. Patient 3 was seen by Respondent on June 21, 2021, for an initial visit, when Patient 3 was almost 11 years of age. Normal vital signs were documented, except for an elevated heart rate of 120. Hearing and vision screenings were normal. Laboratory studies during this visit showed an elevated total bilirubin (1.3) and elevated free T3, indicating a possible problem with Patient 3's thyroid. Respondent's note for the visit indicates that Patient 3 has not been vaccinated.

24. Respondent's assessment of Patient 3 also notes "morbid obesity (she is >>95%)" and that Respondent provided counseling on diet and physical activity. There are no notes to reflect that Respondent addressed the elevated bilirubin and T3 values.

25. On August 12, 2021, Respondent issued a permanent medical vaccine exemption which exempted Patient 3 from DTaP, IPV, MMR, Tdap, and VZV vaccines. The reason for the medical exemption was given as "She has ADHD." While this was a permanent exemption, Respondent noted that it would expire when Patient 3 finished 6th grade. A separate medical vaccine exemption, providing for a permanent vaccine exemption for Polio, DTaP, MMR, HIV, HBV, VZV and Tdap is also in Patient 3's record. The reason for this exemption is "Patient's both brothers have autism. Mom refuses immunization." The CAIR medical exemption form also exempted Patient 3 from vaccines permanently due to ADHD ("She has had ADHD for 10 years").

Patient 4 (Female, DOB: 10/12/2005)

26. Respondent saw patient 4 on September 27, 2021, when she was 15 years of age. Patient 4's vision and hearing screens were normal. The note from the September 27, 2021, visit states a parental concern that the patient had a severe allergic reaction after vaccination and was in the ICU. There is no mention of Patient 4 having been examined for any head injury or concussion, but Respondent signed a note on her prescription pad, dated September 28, 2021,

1 indicating that Patient 4 suffered a concussion the previous day and should undergo a concussion
2 protocol.

3 27. In her interview with the Board investigators, Respondent said that the patient's
4 parent showed Respondent medical records about a prior allergic reaction to vaccines, but copies
5 of those records were not retained in the patient's record. Respondent did not elicit and/or did not
6 document any details about that hospitalization in the patient's medical record. Respondent did
7 not elicit and/or document information about Patient 4's vaccination status or what vaccines she
8 was previously administered. Respondent did not document any effort to verify the allergic
9 reaction and/or to identify the vaccine or vaccine component that caused Patient 5's allergic
10 reaction.

11 28. Respondent wrote a medical vaccine exemption on September 28, 2021 that
12 exempted Patient 4 permanently from DTaP, HBV, IPV, MMR, Tdap, and VZV on the basis that,
13 "She had severe allergic reaction to vaccines in the past." This information is also written on a
14 prescription pad dated September 27, 2021. Respondent completed CAIR documentation
15 including the same explanation for the exemption.

16 29. Respondent wrote a further medical vaccine exemption on December 9, 2021, which
17 exempted Patient 4 from COVID vaccine because "Patient had severe allergic reaction in the past
18 due to vaccines please exempt from receiving vaccines." No additional details are recorded in the
19 patient's chart. This also was a permanent exemption.

20 **Patient 5 (Female DOB: 1/22/15)**

21 30. Patient 5 was seen by Respondent once, on September 15, 2021 for a well-child
22 checkup when Patient 5 was six years of age. Her exam is documented as normal, and the plan
23 was documented as "counseling."

24 31. A prescription pad documents that Patient 5's "mother presented a form from a
25 previous pediatrician from Cincinnati stating that pt had allergic reaction to vaccine in the past
26 and no longer be given further vaccines." The patient's health record from her school in
27 Cincinnati notes DTaP vaccine allergy, and the physician who signed off on this form on January
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1 14, 2021, notes "no further vaccines." A vaccine record shows that Patient 5 received 2 HBV, 1
2 DTaP, and one dose of Tuberculosis (BCG) vaccine.

3 32. Respondent did not document any effort to verify the allergic reaction and/or to
4 identify the vaccine or vaccine component that caused Patient 5's allergic reaction.

5 33. On September 20, 2021, Respondent issued a medical vaccine exemption which
6 exempted Patient 5 from further DTaP, HBV, HIB, MMR, IPV, Tdap, and VZV permanently
7 because "She had a [sic] allergic reaction to the vaccines."

8 **Patient 6 (Male DOB: 1/26/2015)**

9 34. Patient 6 was seen by Respondent on January 20, 2022, for a well-child checkup
10 when Patient 6 was six years of age. Vision and hearing screens were done, with an abnormal
11 vision screen noted. The plan was to refer Patient 6 to optometry. Labs done on May 4, 2022,
12 were normal (except for mildly elevated cholesterol and low hematocrit). Patient 6's varicella IgG
13 was positive, at 753.

14 35. Patient 6's vaccination record documented three HBV, two Rotavirus, three
15 pneumococcal conjugates, four IPV, one MMR, four DTaP, and three HIB vaccine doses. It
16 notes that Patient 6 had Varicella disease in 2020. Documentation of these vaccines is copied
17 from another document with no details of administration documented in Patient 6's chart.
18 Respondent noted that the source of information about Patient 6's rotavirus illness was a "legal
19 document." Respondent did not retain the source documents, or copies, referencing the
20 administration of vaccines or rotavirus exposure, in Patient 6's medical record.

21 36. Respondent wrote a vaccine exemption through the CAIR website on January 21,
22 2022, which provides a temporary exemption for Patient 6 from DTaP and MMR because
23 "Patient had rotavirus disease in 2020. He need [sic] to be temporarily excused from DTAP [sic]
24 and MMR vaccines." Rotavirus is a common cause of diarrheal illness, and the vaccine is
25 administered in infancy with a maximum administration age of 8 months. This is not a relevant or
26 valid reason for exempting this 6-year-old patient from further immunizations. The Respondent
27 did not include a copy of the vaccine exemption in Patient 6's medical record.

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1 **Patient 7 (Female, DOB: 9/28/2013)**

2 37. Patient 7 was seen by Respondent on September 16, 2021 for a well-child checkup
3 when Patient 7 was eight years of age. Vision and hearing screening was performed and the
4 results were normal. Patient 7 was diagnosed with a sebaceous cyst under her chin, and her
5 abdominal pain was assessed, and she was referred to general surgery and abdominal ultrasound.
6 Patient 7 was given a DTaP vaccine during this visit, as documented on the immunization form in
7 Respondent's medical record for this patient.

8 38. Patient 7's laboratory studies, done on May 2, 2022, were normal except for an
9 elevated free T3 and some abnormalities in the urinary analysis. Varicella IgG was measured and
10 was 1174, which is evidence of immunity that made it appropriate to exempt Patient 7 from
11 Varicella vaccination. However, Respondent also wrote a note on a prescription pad, dated
12 October 4, 2021, that states: "Pt had allergic reaction to MMR vaccine according to old records
13 from Russia. Please exempt from getting the MMR vaccine."

14 39. A document (Medical Certificate No 1107) is included in Respondent's medical
15 record for Patient 7. That document notes that Patient 7 was seen by a doctor on August 15,
16 2015, for an allergic reaction to the components of the vaccine against measles, rubella, and
17 parotitis (mumps), and makes the recommendation that Patient 7 be medically exempt from
18 MMR vaccine.

19 40. Respondent signed a permanent vaccine exemption for Patient 7, exempting her from
20 VZV, HBV, and IPV vaccinations on January 17, 2022, because "Patient had her 3 dose of HepB
21 vaccine. She doesn't need anymore. She had 4 dose of polios [sic] no need more. Patient had
22 varicella disease in 2018 of September." Respondent provided a permanent exemption from
23 MMR vaccine due to, "Patient had allergic reaction to MMR in Russia on 08/05/2015."
24 Respondent also signed a permanent medical vaccine exemption from MMR vaccine for Patient 7
25 on October 11, 2021, stating that "Patient had allergic reaction to MMR in Russia on
26 08/05/2015." This permanent exemption for the MMR vaccine was issued to Patient 7 without
27 investigating the nature of the allergy to confirm that the allergic reaction was related to the
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MMR vaccine or any of its components or verifying Patient 7's immunity to measles, mumps, or rubella.

FIRST CAUSE FOR DISCIPLINE

(Gross Negligence)

41. Respondent Nune Aram Simonian, M.D. is subject to disciplinary action under section 2234, Subdivision (b) of the code in that she committed acts of gross negligence in the care and treatment of seven patients. The circumstances are as follows:

42. Paragraphs 10 through 40 are incorporated herein by reference.

a) Respondent's issuance of a one-year medical vaccine exemption to Patient 1, in the manner and for reasons alleged herein, was an extreme departure from the standard of care.

b) Respondent's issuance of a one-year medical vaccine exemption to Patient 2, in the manner and for reasons alleged herein, was an extreme departure from the standard of care.

c) Respondent's issuance of a permanent (until end of 6th grade) medical vaccine exemption to Patient 3, in the manner and for reasons alleged herein, was an extreme departure from the standard of care.

d) Respondent's issuance of a permanent medical vaccine exemption to Patient 4, in the manner and for reasons alleged herein, was an extreme departure from the standard of care.

e) Respondent's issuance of a permanent medical vaccine exemption to Patient 5, in the manner and for reasons alleged herein, was an extreme departure from the standard of care.

f) Respondent's issuance of a temporary medical vaccine exemption to Patient 6, in the manner and for reasons alleged herein, was an extreme departure from the standard of care.

g) Respondent's issuance of a permanent medical vaccine exemption for MMR vaccine to Patient 7, in the manner and for reasons alleged herein was an extreme departure from the standard of care.

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1 **SECOND CAUSE FOR DISCIPLINE**

2 (Repeated Negligent Acts)

3 43. Respondent Nune Aram Simonian, M.D. is subject to disciplinary action under
4 section 2234, subdivision (c) of the Code in that she was repeatedly negligent in her care and
5 treatment of seven patients. The circumstances are as follows:

6 44. The allegations of the First Cause for Discipline are incorporated herein by reference.

7 **THIRD CAUSE FOR DISCIPLINE**

8 (Incompetence)

9 45. Respondent Nune Aram Simonian, M.D. is subject to disciplinary action under
10 section 2234, subdivision (d) of the Code in that she demonstrated a lack of knowledge or ability
11 in her care and treatment of six patients. The circumstances are as follows:

12 46. The allegations of the First and Second Causes for Discipline are incorporated herein
13 by reference.

14 47. Each of the following constitutes an instance of incompetence:

15 a) Respondent's issuance of a vaccine exemption to Patient 1, based on his history
16 of autism, constitutes a lack of knowledge.

17 b) Respondent's issuance of a vaccine exemption to Patient 3, based on a family
18 history of autism, constitutes a lack of knowledge.

19 c) Respondent's issuance of a permanent vaccine exemption to Patient 3, based on
20 her medical history of ADHD, constitutes a lack of knowledge.

21 d) Respondent's issuance of a permanent vaccine exemption to Patient 6, based on
22 his medical history of rotavirus disease two years prior, constitutes a lack of basic medical
23 knowledge.

24 e) Respondent's issuance of vaccine exemptions to Patients 4, 5, and 7, based on
25 their unconfirmed history of allergic reactions, constitutes a lack of basic medical knowledge.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 (Failure to Maintain Adequate and Accurate Records)

3 48. Respondent Nune Aram Simonian, M.D. is subject to disciplinary action under
4 section 2266 in that she failed to maintain accurate and adequate medical records. The
5 circumstances are as follows:

6 49. The allegations of paragraphs 10 through 40 are incorporated herein by reference.

7 **PRAYER**

8 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,
9 and that following the hearing, the Medical Board of California issue a decision:

10 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 55410,
11 issued to Nune Aram Simonian, M.D.;

12 2. Revoking, suspending or denying approval of Nune Aram Simonian, M.D.'s authority
13 to supervise physician assistants and advanced practice nurses;

14 3. Ordering Nune Aram Simonian, M.D. to pay the Board the costs of the investigation
15 and enforcement of this case, and if placed on probation, the costs of probation monitoring; and

16 5. Taking such other and further action as deemed necessary and proper.

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18 DATED: **MAY 19 2023**

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20 REJI VARGHESE
21 Interim Executive Director
22 Medical Board of California
23 Department of Consumer Affairs
24 State of California

25 *Complainant*

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